

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRENTEN GEORGE, et al.,

Plaintiffs,

-vs-

CASE NO.: 16-CV-1678

CNH HEALTH & WELFARE BENEFIT PLAN, et al.,

Defendants.

FAIRNESS HEARING in the above-entitled matter,
held before the Honorable J.P. Stadtmueller, on the 4th day of
May, 2018, commencing at 8:27 a.m. and concluding at 8:36 a.m.

A P P E A R A N C E S

O'Neil, Cannon, Hollman, DeJong & Laing, SC
Mr. Douglas P. Dehler and Ms. Christa D. Wittenberg
111 East Wisconsin Avenue, Suite 1400
Milwaukee, Wisconsin 53202
Appeared on behalf of the Plaintiffs.

Tuffnell Law, SC
Mr. John B. Tuffnell
790 North Milwaukee Street, Suite 200
Milwaukee, Wisconsin 53202
Appeared on behalf of the Plaintiffs.

Quarles & Brady, LLP
Mr. Patrick J. Murphy
411 East Wisconsin Avenue, Suite 2350
Milwaukee, Wisconsin 53202
Appeared on behalf of Defendants CNH and Case New Holland.

A P P E A R A N C E S (continued)

Foley & Lardner, LLP
Mr. Bartholomew F. Reuter
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
Appeared on behalf of the Defendants.

Hogan Lovells US, LLP
Ms. Briana L. Black
555 13th Street, NW
Washington DC, 20004-1109
Appeared on behalf of Defendant Blue Cross Blue Shield of
Wisconsin.

Mr. Nathan Bader, Clerk.
Ms. Sheryl L. Stawski, Official Reporter.

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T R A N S C R I P T O F P R O C E E D I N G S

(The proceedings commenced at 8:27 p.m.)

THE CLERK: The Court calls Brenten George, et al. versus CNH Health and Welfare Benefit Plan, et al., Case Number 16-CV-1678, for a class action settlement fairness hearing.

May I have the appearances beginning with the plaintiff.

MR. DEHLER: On behalf of the plaintiff, Doug Dehler of O'Neil, Cannon, Hollman, DeJong and Laing; along with me is Christa Wittenberg of the same firm; and John Tuffnell of Tuffnell Law.

MR. MURPHY: Good morning, Your Honor.

Patrick Murphy of Quarles and Brady on behalf of CNH Health and Welfare Plan, CNH Employee Group Insurance Plan, and Case New Holland Industrial, Inc.

MR. REUTER: Good morning, Your Honor.

Bart Reuter, Foley and Lardner; here with Briana Black and our client, Mary Nash.

THE COURT: Thank you.

Good morning, Counsel. And for those of you who are fresh in from other communities, welcome to Milwaukee.

This morning's hearing is a follow-on to the order that the Court entered last September giving preliminary approval to the very thoughtful, wise settlement that the parties were able to achieve in the case.

1 This morning's hearing was duly noticed. I have -- or
2 the Court, I should say, has received no objections, written or
3 otherwise; and so to the extent beyond your written submissions
4 you have some further comments, Mr. Dehler or Mr. Murphy or
5 your colleagues, certainly now is the opportunity.

6 MR. DEHLER: Your Honor, I don't want to waste the
7 Court's time by repeating what's been stated in the briefs.

8 So if there are specific questions that the Court has,
9 I'd be happy to answer them. We believe that the case -- that
10 the class should be certified, and that the settlement is fair
11 and reasonable, and should be approved.

12 We believe that the attorneys' fees award is
13 reasonable, and that the incentive award payments are
14 appropriate and reasonable; and, therefore, we would ask the
15 Court to approve the settlement.

16 THE COURT: All right. Thank you.

17 Mr. Murphy.

18 MR. MURPHY: Nothing further, Your Honor.

19 THE COURT: Do we have a pretty good handle on all of
20 the identified members of the class, or is this going to be one
21 of these situations that at the end there may be some funds
22 that are subject to further disbursement?

23 MR. DEHLER: We do not anticipate there will be funds
24 subject to further disbursement. We believe that there will be
25 some checks likely that will be uncashed. They will have 120

1 days to cash the check. It will be made clear that they have
2 120 days to cash the check, but inevitably some people don't.

3 To the extent that funds remain after -- after that
4 120-day period expires, it will be added to the surplus that
5 was discussed in the settlement papers and redistributed to the
6 remaining class members.

7 Those people who do not cash their checks will have
8 their claims be deemed denied so that their funds can be
9 redistributed to other settlement class members. We do not
10 anticipate there will be excess funds beyond that.

11 THE COURT: What's the methodology should, say, since
12 September one or more members of the class having passed away,
13 is there a provision to have this go into their estate or not?

14 MR. DEHLER: I'm going to defer, if I could, to Ms.
15 Black who worked more closely with the settlement administrator
16 on some of these issues.

17 MS. BLACK: So -- Good morning, Your Honor.

18 THE COURT: Good morning.

19 MS. BLACK: The settlement administrator will use a
20 number of databases to update the addresses again before the
21 checks come out.

22 If something is returned that someone has deceased,
23 they will -- and someone comes forward as part of that, that
24 there's an estate, they will work with that to make sure the
25 check gets to the appropriate place.

1 THE COURT: Very well.

2 Any other comments anybody would like to make?

3 (No verbal response.)

4 THE COURT: Well, the Court has reviewed the lengthy
5 order that you prepared; and, again, it's well done,
6 thoughtful; and unless the defendants have any concerns, the
7 Court is prepared to sign it and file it today.

8 MR. MURPHY: No concerns, Your Honor.

9 MR. REUTER: No, Your Honor. Thank you very much.

10 THE COURT: Again, the Court very much appreciates the
11 hard work that went into the case. As some of you know, in
12 this branch of the court we are on a track to virtually
13 conclude each and every civil case within a year of its being
14 filed.

15 And the clerk just notified me yesterday that in terms
16 of time between filing and trial, in this branch of the court
17 we're at 13.2 months which is second only to the Eastern
18 District of Virginia, which the entire court is at about 13
19 months.

20 Unfortunately, in this district Judge Stadtmueller is
21 the only one who has achieved that milestone; and there's no
22 reason, in all seriousness, why it can't be achieved in every
23 court.

24 I inherited an awful lot of cases from both Judges
25 Clevert, who retired, and Judge Randa, who passed away in

1 September of 2016. And in reviewing the dockets in those
2 cases, it was simply mind-boggling to see no trial dates set
3 and one extension of time after another being addressed.

4 And so the moral of the story is, yes, litigation is
5 very, very expensive in the world in which you and I find
6 ourselves; but on the other hand, every time you and/or your
7 clients pick up a file and put it away for several months, it
8 takes an awful lot of time to get back up to speed with full
9 burners.

10 And as a consequence, I have endeavored to ensure that
11 these milestones that the drafters of the Federal Rules
12 beginning with Rule 1 are put in place to ensure the cases are
13 appropriately and thoughtfully addressed in a timeline that
14 allows these cases to reach maturity and be concluded within a
15 year.

16 And while this case took a little bit longer because
17 of the settlement negotiations, compared to the Northern
18 District of Illinois or Indiana, or others, we're doing the
19 people's work in an expeditious but yet thorough way. And your
20 work in this case certainly contributed to that goal, so --

21 MR. DEHLER: Thank you.

22 THE COURT: -- my hat goes off to each of you as well
23 as your respective clients.

24 MR. DEHLER: Thank you, Your Honor.

25 THE COURT: Enjoy the weekend and perhaps on some

1 future occasion I'll have an opportunity to see all of you
2 again.

3 MR. DEHLER: Very good, Your Honor. Thank you.

4 THE COURT: The Court stands in recess until ten
5 o'clock.

6 (Proceedings concluded at 8:36 a.m.)
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1 STATE OF WISCONSIN)
2 MILWAUKEE COUNTY) SS:

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5 I, SHERYL L. STAWSKI, a Registered
6 Professional Reporter and Official Court Reporter, for the
7 United States District Court, Eastern District of Wisconsin, do
8 hereby certify that the above proceedings were reported by me
9 on the 4th day of May, 2018, and reduced to writing under my
10 personal direction and is a true, correct and complete
11 transcription of my computer-aided transcription of my
12 stenographic notes.

13
14 Dated at Milwaukee, Wisconsin, this 14th
15 day of May, 2018.

16 s/ Sheryl L. Stawski

17 Sheryl L. Stawski
18 Official Court Reporter
19 United States District Court
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